

IC 4-13.6-3

Chapter 3. Public Works Division

IC 4-13.6-3-1

Duties of department; assignment of public works project

Sec. 1. (a) Except as provided in IC 4-13.6-4, the department shall:

- (1) adopt rules under IC 4-22-2 necessary to carry out this article;
- (2) consider and decide matters of policy under this article; and
- (3) enforce this article and the rules adopted under it.

However, the department may not impair rights or obligations of the state or of a contractor under a contract in existence on the effective date of a rule.

(b) The commissioner may assign a public works project or a designated part of a public works project normally under the jurisdiction of the division to another division of the department. However, the commissioner may make this assignment only if the commissioner makes a written determination that:

- (1) the estimated cost of the entire project is less than one hundred thousand dollars (\$100,000);
- (2) in the commissioner's judgment, it is in the interest of efficiency and economy to make the assignment; and
- (3) in the commissioner's judgment, the other division of the department to which the assignment is made and the laws that govern that division make that division better suited to accomplish the assignment.

When executing the project, the other division of the department to which the project is assigned must follow all laws governing that division in accomplishing the assignment.

(c) Notwithstanding subsection (b), the commissioner may generally assign public works projects, regardless of the cost, when the projects are for the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property to any division of the department that the commissioner determines is appropriate without making a written determination under subsection (b).

As added by P.L.24-1985, SEC.7. Amended by P.L.5-1993, SEC.9.

IC 4-13.6-3-2

Establishment of division; powers and duties; determination of project value

Sec. 2. (a) The public works division is established within the department. Subject to this article, the division shall:

- (1) prepare or supervise preparation of contract documents for public works projects;
- (2) approve contract documents for public works projects;
- (3) advertise for bids for public works contracts;
- (4) recommend to the commissioner award of public works contracts;

- (5) supervise and inspect all work relating to public works projects;
- (6) recommend to the commissioner approval of any necessary lawful changes in contract documents relating to a public works contract that has been awarded;
- (7) approve or reject estimates for payment;
- (8) accept or reject a public works project; and
- (9) administer this article.

(b) Except as provided in IC 4-13.6-5-4(b) and subject to IC 4-13.6-2-6, whenever in this article a duty is specified or authority is granted that relates to the estimated dollar value of a public works project, the director shall make the determination of the value of the project. Such a determination of the director is final and conclusive and is the amount against which the existence of the duty or the authority shall be determined, even if it is later found that the determination of the director was erroneous.

(c) The division may delegate any of its authority to a governmental body.

As added by P.L.24-1985, SEC.7.

IC 4-13.6-3-3

Certification board

Sec. 3. (a) There is established a certification board. The following persons shall serve on the certification board:

- (1) The state building commissioner.
- (2) The chief engineer of the department of natural resources.
- (3) The director.

(b) The board shall administer IC 4-13.6-4.

As added by P.L.24-1985, SEC.7.

IC 4-13.6-3-4

Increased compensation for early performance of contracts; deductions for late completion of contracts; notice

Sec. 4. (a) The commissioner may specify in a contract that early performance of the contract will result in increased compensation at either:

- (1) a percentage of the contract amount; or
- (2) a specific dollar amount;

determined by the commissioner.

(b) The commissioner may specify in a contract that completion of the contract after the termination date of the contract will result in a deduction from the compensation in the contract at either:

- (1) a percentage of the contract amount; or
- (2) a specific dollar amount;

determined by the commissioner.

(c) Notice of inclusion of contract provisions permitted under this section in a contract must be included in the solicitation.

As added by P.L.5-1993, SEC.10.